

**ORDINANCE NO. 2007-46**

ORDINANCE REZONING PROPERTY FROM R-1 (ONE FAMILY DISTRICT) TO C-1 (RESTRICTED RETAIL COMMERCIAL DISTRICT) AND GRANTING A VARIANCE PERMIT TO ALLOW 9 PARKING SPACES, WHERE 12 PARKING SPACES ARE REQUIRED, CONTRA TO HIALEAH CODE § 98-2189(7). **PROPERTY LOCATED AT 484 EAST 49 STREET, HIALEAH, FLORIDA.** REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Planning and Zoning Board at its meeting of April 11, 2007 recommended approval of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** The below-described property is hereby rezoned from R-1 (One Family District) to C-1 (Restricted Retail Commercial District) and is granted a variance permit to allow 9 parking spaces, where 12 parking spaces are required, contra to Hialeah Code § 98-1289(7), which provides in pertinent part: "One parking space for each 200 square feet of gross floor area of the floor . . . " Property located at 484 East 49 Street, Hialeah, Miami-Dade County, Florida and legally described as follows:

LOT 14 LESS THE WEST 20 FEET AND LESS THE NORTH 10 FEET THEREOF, AND LOT 15, LESS THE NORTH 10 FEET THEREOF, BLOCK 64-F, SIXTEENTH ADDITION TO HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 10, PAGE 53, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

ALSO KNOWN AS; THE EAST 60 FEET OF TRACT 64, LESS THE NORTH 10 FEET THEREOF, REVISED PLAT OF THE REVISED PLAT OF THE SIXTEENTH ADDITION TO THE CITY OF HIALEAH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 31, PAGE 32, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

**Section 2: Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3: Penalties.**

Every person convicted of a violation of any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4: Severability Clause.**

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 5: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the

Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 8 day of May, 2007.

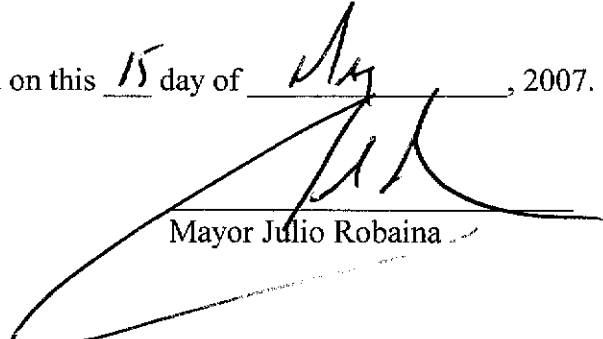
THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Esteban Bovo  
Council President

Attest:

  
\_\_\_\_\_  
Rafael E. Granado, City Clerk

Approved on this 15 day of May, 2007.

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers Bovo, Caragol, Casals-Muñoz, Gonzalez, Hernandez, Miel and Yedra voting "Yes".

**Prepared by and return to:**  
City of Hialeah  
Planning Division  
501 Palm Avenue, Second Floor  
Hialeah, FL 33010

**DECLARATION OF RESTRICTIVE COVENANTS  
(Individual)**

(I) (WE), Mirta C. Ayes

Being the owner(s) of lands described herein:

The East 60 feet of Tract 64F, less the North 10 feet thereof, Revised Plat of the Revised Plat of Sixteenth Addition to the City of Hialeah, according to the plat thereof, as recorded in Plat Book 31, Page 32, of the Public Records of Miami-Dade County, Florida,

The street property address is 484 East 49 Street, Hialeah, FL 33013,

The folio number is 04-3105-011-3620,

make the following Declaration of Restrictive covenants covering and running with the above property, specifying that this restriction during its lifetime shall be for the benefit of and a limitation upon all present and future owners of the real property described above, in favor of and enforceable by the City of Hialeah, Florida. *MA*

In connection therewith, the undersigned covenants, represents and agrees as follows:

1. Commercial uses are permitted, however, restaurants, cafeterias, medical offices and day cares will not be permitted, due to parking limitations and traffic congestion. In addition, building permits should be obtained within 18 months from the date of the Ordinance and Rezoning approval.
2. This covenant is intended and shall constitute a restrictive covenant concerning the use, enjoyment, and title to the above-described property and shall constitute a covenant running with the land and may be recorded in the Public Records of Miami-Dade County, Florida. This covenant shall remain in full force and effect and shall be binding upon the undersigned, its (their) heirs, successors and assigns until such time as the same is modified, amended or released and may only be modified, amended or released by a written instrument executed by the then owner having fee simple title to the property affected or to be affected by such modification, amendment, or release; provided, however, the same is also approved by the City Council and the Mayor of the City of Hialeah, or its successors, by resolution, upon advertised notice, or by ordinance if the covenant is adopted by ordinance or as otherwise provided in Hialeah Charter.
3. Where construction has occurred on said property described herein, pursuant to a permit issued by the City of Hialeah, and inspection made and approval of occupancy given by the City, the same shall create a conclusive presumption that the improvements thus constructed comply with the intent and spirit of the restrictions referenced herein and this Declaration of Restrictive Covenants shall not be construed as clouding title of any of said property on which such development has occurred.

*1020 5/11/08  
from P&Z - 36  
C/O OT-46*

IN WITNESS WHEREOF, (I) we have hereunto set out hands and seals at  
City of Hialeah this 23 day of April, 2007  
(location)

Signed, sealed and delivered in the  
presence of:

Witness (2 Witnesses  
required)

Typed/Printed Name \_\_\_\_\_

Isabel Campuzano

Witness:

Typed/Printed Name ISABEL CAMPUZANO

Mirta C. Ayes  
Owner

Typed/Printed Name MIRTA C. AYES

Witness (2 Witnesses  
required)

Typed/Printed Name \_\_\_\_\_

Co-Owner

Typed/Printed Name \_\_\_\_\_

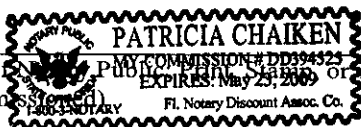
STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this 23 day of April 2007, before me, an officer duly  
authorized in the State of Florida and in County of Miami-Dade, to take acknowledgments, personally  
appeared Mirta C. Ayes and N/A To me known to be the  
person(s) described herein and who executed the foregoing instrument, and he/she/they acknowledged before  
me, under oath, that he/she/they executed same.

WITNESS my hand and official seal this 23 day of April, 2007

Patricia Chaiken  
Notary Public, State of Florida

(Name of Notary Public, State of Florida, or type  
as Commissioner)



☐ Personally known to me, or

☒ Produced identification:

EDL # S35054159-908 EXP 11-8-07  
Identification produced:

☐ Did take an oath

☐ Did NOT take an oath